

**BEFORE THE UNITED STATES DEPARTMENT
OF AGRICULTURE
AGRICULTURAL MARKETING SERVICE**

**In the Matter of
Milk In The Central
Marketing Area**

**:
: Docket Nos.:
: AO-313-A44 et al;
: DA-01-07
:**

Statement Regarding Proposal 6

**Elvin Hollon
Dairy Farmers of America, Inc.**

**November 14, 2001
Kansas City, Missouri**

*Exhibit 24
11/15/2001 pm*

Statement on Proposal 6

Proposal 6 reflects the need to alter the advance payment provisions of Order 32. The dairy farmer members of our group continue to request that they be paid an advance payment that more closely resembles the actual blend price. Their individual farm business needs demand a more consistent cash flow in order to remain viable. The current provisions that call for advance billings at the prior month's lowest class price do not provide sufficient funds to meet our members' cash flow objectives. The Final Rule makes the following statements about the Uniform Price and the Advance Price:

Payments to Producers and Cooperative Associations

The AMAA provides that handlers must pay to all producers and producer associations the uniform price. The existing orders generally allow proper deductions authorized by the producer in writing. Proper deductions are those that are unrelated to the minimum value of milk in the transaction between the producer and handler. Producer associations are allowed by the statute to 'reblend' their payments to their producer members. The Capper Volstead Act and the AMAA make it clear that cooperative associations have a unique role in this regard.

The payment provisions to producers and cooperatives for the consolidated orders vary with respect to payment frequency, timing, and amount. These differences are generally consistent with current order provisions and with industry practices and customs in each of the new marketing areas.

Each of the new orders will require handlers to make at least one partial payment to producers in advance of the announcement of the applicable uniform prices. The Florida order will require 2 partial payments, mirroring the payment schedule now provided in the 3 separate Florida orders.

The amount of the partial payment varies among the new orders, reflecting the anticipated uniform price. Thus, for example, in the Upper Midwest order, the partial payment rate for milk received during the first 15 days of the month will be not less than the lowest announced class price for the preceding month. By comparison, the partial payment for the Florida order for milk received during the first 15 days of the month will be at a rate that is not less than 85 percent of the preceding month's uniform price, adjusted for plant location.

There are a wide variety of payment dates and payment levels among the various Orders. The table identified as Exhibit ____, Table ____ titled – **Comparison of Payment Provisions – Federal Orders** presents the differing provisions. There is no precedent for a uniform payment level or terms across all Orders. Among the Order system there are three broad groupings. In the Southern Orders payment are set at a percentage of the prior months blend price adjusted for location. The Northeast and Central area of the country sets the advanced payment level at the prior month's lowest Class price. The Western Orders use an add-on percentage applied to the prior month's lowest class price.

The Final Rule supports the principle that all handlers pay the uniform price. We can see no reason why the Advance Payment should not come closer to approximating the Uniform Price. Examination of recent data shows that the Advance Price is getting further from the Uniform Price. (See Exhibit ____ Tables 1 – 8 and Charts)

By examining the data it is clear that there has been a change in trend in the advance price versus blend relationship. The price measure is this month's blend less last month's lowest Class price. For the period January 1997 – September 2001 (57 months) the monthly average spread between the two prices was \$1.59, the first 36 months averaged \$1.52 cents (1997 – 1999) and the last 21 months \$1.70. Graphically this trend is shown on the **Chart of Price Trends** (Exhibit ____) where even after a three month average was used to smooth out some of the fluctuations a difference in trend can be noted.

In order to determine a better relationship between the prior month's lowest Class price and this month's blend price, the lowest Class price was inflated by five, six, seven and eight nine and ten percent. These ranges were chosen after testing several alternative ranges. The spreads were measured and compared in the same manner as the existing blend versus Class price data. After examination it appears that a five percent inflation of the prior month's lowest Class price is a reasonable adjustment to approximating the spread that existed over the first 36-month period.

It is a problem if the advance price is larger than the final because some producers may not have enough funds to cover their deductions. Also in some extraordinary cases the advance may over pay the total amount due and result in the need for some type of collection proceeding, which is difficult and costly. However as dairy prices are more volatile, this is an issue under the current system even if no adjustment is made. Producer premiums are present in the Federal Order 32 procurement area and that should buffer the overpayment concerns. This concern needs to be balanced by a dairy farmers' right to a reasonable approximation of the blend price advance payment. Our experience is that the market carries a pay premium of well over a dollar per hundredweight - ranging from \$0.75 to \$1.35.

Thus we would request that the rate for advance payments be set at 105 percent of the prior month's lowest class price.

The language to effect our proposal would be as follows:

§ 1032.73 Payments to producers and to cooperative associations

(a) * * *

(1) *Partial Payment.* For each producer who has not discontinued shipments as of the date of this partial payment, payment shall be made so that it is received by each producer on or before the 26th day of the month (except as provided in § 1000.90) for milk received during the first 15 days of the month from the producer at not less than 110 percent times the lowest announced class price for the preceding month, less proper deductions authorized in writing by the producer.

* * *

(c) * * *

(1) For bulk fluid milk products and bulk fluid cream products received from a cooperative association in its capacity as the operator of a pool plant and for milk received from a cooperative association in its capacity as a handler pursuant to § 1000.9(c) during the first 15 days of the month, at not less than 105 percent times the lowest announced class prices per hundredweight for the preceding month;